

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 219**

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**Introduced by Assembly Member Daly**  
**(Principal coauthor: Assembly Member Gonzalez)**

February 2, 2015

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An act to amend Sections 1720.3 and 1722.1 of, and to add Section 1722.2 to, 1720.9 to the Labor Code, relating to public works.

### LEGISLATIVE COUNSEL'S DIGEST

AB 219, as amended, Daly. Public works: concrete delivery.

Existing law defines “public works,” for purposes of requirements regarding the payment of prevailing wages for public works projects, to include, among other things, the hauling of refuse from a public works site to an outside disposal location with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state. Existing law makes a willful violation of law relating to payment of prevailing wages on public works a misdemeanor.

This bill would expand the definition of “public works” for these purposes to include the ~~delivery of ready-mixed or asphaltic concrete hauling and delivery of ready-mixed concrete, as defined, to carry out a public works contract~~, with respect to contracts involving any state agency or any political subdivision of the state. ~~This~~ *The bill would require the applicable prevailing wage rate to be the rate for the geographic area in which the concrete factory or batching plant is located. The bill would provide that the expansion of that definition*

~~does these provisions do~~ not apply to contracts advertised for bid or awarded prior to the effective date ~~that provision~~ *of this measure*. By expanding the definition of a crime, this bill would impose a state-mandated local program.

Existing law defines “contractor” and “subcontractor,” for purposes of requirements regarding the payment of prevailing wages for public works projects, to include a contractor, subcontractor, licensee, officer, agent, or representative thereof, when working on public works, as specified. Existing law, the Contractors’ State License Law, provides for the licensure and regulation of contractors by the Contractors’ State License Board.

~~This bill would provide that a person is a “contractor” or “subcontractor” for the purposes of those requirements regardless of whether the person is subject to the requirements of the Contractors’ State License Law. This bill would provide that an agreement with a contractor or a subcontractor to perform a public work is a “contract” or “subcontract” for the purposes of requirements regarding the payment of prevailing wages described above.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1720.3 of the Labor Code is amended to
- 2     read:
- 3     1720.3. (a) For the limited purposes of Article 2 (commencing
- 4     with Section 1770), “public works” also means the hauling of
- 5     refuse from a public works site to an outside disposal location, or
- 6     the hauling and delivery of ready-mixed concrete or asphaltic
- 7     concrete to a public works site, with respect to contracts involving
- 8     any state agency, including the California State University and the
- 9     University of California, or any political subdivision of the state.
- 10    (b) For purposes of this section, the “hauling of refuse” includes,
- 11    but is not limited to, hauling soil, sand, gravel, rocks, concrete,
- 12    asphalt, excavation materials, and construction debris. The “hauling

of refuse” shall not include the hauling of recyclable metals such as copper, steel, and aluminum that have been separated from other materials at the jobsite prior to transportation and that are to be sold at fair market value to a bona fide purchaser.

(e) For the purposes of this section, the “hauling and delivery of ready-mixed concrete or asphaltic concrete to a public works site” means the job duties for a ready mixer driver that are used by the Director of Industrial Relations in determining wage rates pursuant to Section 1773.

SEC. 2. Section 1722.1 of the Labor Code is amended to read:

1722.1. For the purposes of this chapter, “contractor” and “subcontractor” include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770). A person or entity may be a “contractor” or “subcontractor” for the purposes of this chapter regardless of whether the person or entity is subject to the licensing requirements of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

SEC. 3. Section 1722.2 is added to the Labor Code, to read:

1722.2. For the purposes of this chapter, an agreement with a contractor or subcontractor to perform any public work covered by this article and Article 2 (commencing with Section 1770) of this chapter is a “contract” or “subcontract.”

SECTION 1. Section 1720.9 is added to the Labor Code, to read:

1720.9. (a) For the limited purposes of Article 2 (commencing with Section 1770), “public works” also means the hauling and delivery of ready-mixed concrete to carry out a public works contract, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state.

(b) For purposes of this section, “ready-mixed concrete” means concrete that is manufactured in a factory or a batching plant, according to a set recipe, and then delivered in a liquefied state by mixer truck for immediate incorporation into a project.

(c) For purposes of this section, the “hauling and delivery of ready-mixed concrete to carry out a public works contract” means the job duties for a ready mixer driver that are used by the director in determining wage rates pursuant to Section 1773, and includes

1 *receiving the concrete at the factory or batching plant and the*  
2 *return trip to the factory or batching plant.*

3 *(d) For purposes of this section, the applicable prevailing wage*  
4 *rate shall be the current prevailing wage, as determined by the*  
5 *director, for the geographic area in which the factory or batching*  
6 *plant is located.*

7 *(e) The entity hauling or delivering ready-mixed concrete to*  
8 *carry out a public works contract shall enter into a written*  
9 *subcontract agreement with the party that engaged the entity to*  
10 *supply the ready-mixed concrete. The written agreement shall*  
11 *require compliance with the requirements of this chapter.*

12 *(f) The entity hauling or delivering ready-mixed concrete to*  
13 *carry out a public works contract shall submit a certified copy of*  
14 *the payroll records required by subdivision (a) of Section 1776 to*  
15 *the party that engaged the entity and to the general contractor*  
16 *within three working days after the employee has been paid,*  
17 *accompanied by a written time record that shall be certified by*  
18 *each driver for the performance of job duties in subdivision (c).*

19 ~~SEC. 4. The amendments made by Section 1 of this act do~~

20 *SEC. 2. This act does not apply to contracts advertised for bid*  
21 *or awarded prior to the effective date of this the act.*

22 ~~SEC. 5.~~

23 *SEC. 3. No reimbursement is required by this act pursuant to*  
24 *Section 6 of Article XIII B of the California Constitution because*  
25 *the only costs that may be incurred by a local agency or school*  
26 *district will be incurred because this act creates a new crime or*  
27 *infraction, eliminates a crime or infraction, or changes the penalty*  
28 *for a crime or infraction, within the meaning of Section 17556 of*  
29 *the Government Code, or changes the definition of a crime within*  
30 *the meaning of Section 6 of Article XIII B of the California*  
31 *Constitution.*